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Note verbale dated 27 October 2004 from the Permanent Mission of Pakistan to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Pakistan to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004), and has the honour to transmit herewith the national report of the Government of Pakistan in accordance with paragraph 4 of the Security Council resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 27 October 2004 from the Permanent Mission of Pakistan to the United Nations addressed to the Chairman of the Committee

Pakistan's national report on national measures on the implementation of Security Council resolution 1540 (2004)

Consistent with its strong commitment to the objectives of disarmament and non-proliferation, Pakistan fully supports appropriate and effective measures to prevent non-state actors from gaining access to weapons of mass destruction and their means of delivery. This has been reiterated in public pronouncements of the Pakistan's leadership and the government. Nationally, Pakistan has instituted comprehensive administrative, legislative and security measure to ensure the safety and security of sensitive materials, facilities, technologies and equipment. Internationally, Pakistan remains a partner in efforts to stem proliferation and illicit trafficking of WMD-related materials.

Pakistan believes that the objectives of non-proliferation of weapons of mass destruction to non-state actors can be effectively promoted through freely negotiated, non-discriminatory and cooperative multilateral efforts. Pakistan stands ready to contribute constructively to all efforts that strengthen global non-proliferation within the framework of existing treaty regimes and bodies.

Pakistan has taken general and specific steps in implementation of Resolution 1540 (2004). This report, being submitted pursuant to paragraph 4 of Resolution 1540, elaborates such steps. The Government of Pakistan regularly reviews its policies and measures and would continue to strengthen them, where appropriate or necessary.

Operative Paragraph 1

1. Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

This objective is realized through the existence of appropriate policy, administrative and legislative framework detailed below.

Operative Paragraph 2

2. Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

Elaborate legal, administrative and law enforcement measures are in place to prohibit non-State actors to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery. Where required, these measures have been further strengthened.

Legal Framework

Pakistan's export controls framework is governed by the following legal and administrative instruments:

i). The Import and Exports (Control) Act, 1950 Act No. XXXIX of 1950. This Act authorizes the Federal Government to prohibit, restrict or control the import or export of goods and regulate all practices and procedures connected therewith. Section 5(1) of the Act provides for penalty of an individual, without prejudice to any confiscation to which he may be liable under the provisions of the Customs Act 1969-(IV 0f 1969), as applied by sub-section (3) of this Act, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

ii). Pakistan Nuclear Safety and Radiation Protection (PNSRP) Ordinance of 1984 and Regulation of 1990 which contains provisions for control of import/export of nuclear substances and radioactive materials, extending to whole of Pakistan, has been further strengthened with Pakistan Nuclear Regulatory Authority Ordinance 2001.

iii). Pakistan's Trade Policy 2004-05: This encompasses Import Policy Order and Export Policy Order to regulate trade on all items. These orders take into account all previous Statutory Regulation Orders (SROs) and Ordinances issued by the Government of Pakistan from time to time. Under (a) Import Policy Order 2004 and (b) Export Policy Order 2004 (EPO), import and export of sensitive materials is regulated.

iv). Chemical Weapons Convention Implementation Ordinance- 2000, Ordinance No. LIV of 2000. The law enables the full implementation and enforcement of the provisions of the Chemical Weapons Convention and fulfills Pakistan's obligations under Article VII of the

Convention mandating national implementing measures. This legislative framework regulates and controls the import and export of chemicals in accordance with the CWC and provides for criminal penalties in case of violations. Para 12 of the EPO 2000 pertains to export control of chemicals as required under the Chemical Weapons Convention. The National Authority established in the Ministry of Foreign Affairs is the focal point for the implementation and enforcement of the provisions of the Ordinance. These measures constitute fulfillment of the requirements of resolution 1540 in the context of CWC.

vi) Pakistan Nuclear Regulatory Authority Ordinance (PNRA), 2001. Ordinance No. III of 2001. Under this Ordinance, PNRA issues the required "no objection certificate" (NOC) for all imports and exports of any radioactive materials or radiation sources. The PNRA is responsible for controlling, regulating and supervising all maters related to nuclear safety and radiation protection measures in Pakistan. Any person who contravenes any of the provisions of sections 19, 20, 21, 22 or 23 of the Ordinance shall be punishable with imprisonment for a term which may extend to 7 years, or with fine which may extend to one million rupees, or with both. Notification SRO.III(1)2004 as amended on 16 February 2004; Nuclear substances, Radioactive Materials and any other substance or item covered by PNRA Ordinance, 2001 (III 0f 2001); and Equipment used for production, use, or application of nuclear energy or activity, including generation of electricity and spares, are subject to NOC from PNRA as per procedure notified by the Pakistan Nuclear Regulatory Authority (PNRA).

New Legislation

A new comprehensive national legislation entitled "Export Control on Goods, Technologies, Material and Equipment related to Nuclear and Biological Weapons and their Delivery Systems Act, 2004" was passed by National Assembly on 14th September, 2004 and by the Senate on 18th September, 2004. The Act received the assent of the President on 23rd September, 2004 and entered into force the same day. The Act further strengthens controls on export of sensitive technologies particularly related to nuclear and biological weapons and their means of delivery. Salient elements of the new Export Control Act include:

- Controls over export, re-export, transshipment and transit of goods, technologies, material and equipment covered. Prohibition of diversion of controlled goods and technologies.

- Wide jurisdiction (also includes Pakistanis visiting or working abroad).

- Provide for an authority to administer rules and regulations framed under this legislation. Also provides for the establishment of an Oversight Board to monitor the implementation of this legislation.

- Comprehensive control lists and catch all provisions.
- Licensing and record keeping provisions.
- Penal provisions: Up to 14 years imprisonment and Rs.5 million fine or both, and on conviction, offender's property and assets, wherever they may be, shall be forfeited to the Federal Government. Right of appeal provided for.

- For the purposes of the Export Control Act, the authority rests with the Federal Government and the Federal Government, as and when necessary, may -

  (a) make such rules and regulations as are necessary for implementation of this Act;

  (b) delegate authority to administer all activities under this Act to such Ministries, Division, Departments and Agencies as it may deem appropriate;

  (c) establish a government Authority to administer export controls established under this Act;

  (d) designate the agency or agencies authorized to enforce this Act;

  (e) establish an Oversight Board to monitor the implementation of this Act; and

  (f) require licenses for exports from Pakistan of goods and technology, and the re-export of goods and technology that originated in Pakistan.

- Moreover, officials of the designated agency or agencies are authorized to inspect consignments declared for export and review, acquire or confiscate records or withholding an export license under this Act. The Federal Government may vest any investigatory powers and powers of arrest authorized by law in officials of the customs administration or other appropriate agencies.

Operative Para 3

3. Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport.

Action Taken

- In accordance with Pakistan's laws, effective measures have been taken to account for and secure sensitive materials in production, use, storage or transport.

- Pakistan Nuclear Regulatory Authority (PNRA) has an established system for the safety and security of nuclear and radioactive materials and installations during use, storage and transport. PNRA regulations (i.e. PAK/904-Regulations on Nuclear Protection, PAK/909-Regulations for Licensing of Nuclear Installations, PAK/911-Regulations on the Safety of Nuclear Power Plants Design, PAK/916-Regulations for the Safe Transport of Radioactive Material) contain necessary clauses, which obligates the licensee to take appropriate measures for the security of the nuclear/radioactive materials and the installations under its jurisdiction. Pakistan is also a Party to the Convention on Physical Protection of Nuclear Material (CPPNM) and has formally informed the IAEA regarding its voluntary commitment to follow the requirements of the Code of Conduct for the Safety and Security of Radioactive Sources.

b) *Develop and maintain appropriate effective physical protection measures;*

Action Taken

- The Government has put in place effective physical protection measures for the safety and security of its installations, equipment, material and personnel.

- Under the Chemical Weapons Convention Implementation Ordinance – 2000, Ordinance No. LIV of 2000, effective controls have been established to regulate and control the import and export of chemicals in accordance with the CWC and provides for criminal penalties in case of violations. The National Authority established in the Ministry of Foreign Affairs is the focal agency for the implementation and enforcement of the provisions of the Ordinance. The Ordinance includes implementation of reporting requirements for all chemicals contained in the schedules I, II & III of the CWC.

- Pakistan is a party to the Convention on Physical Protection of Nuclear Material and Nuclear Facilities since September 2000. PNSRP Regulations 1990 as amended in 1998 provides that "Licensee shall be responsible to organize and ensure the physical protection of nuclear material in use, storage and during transport and of nuclear facilities, including radioactive waste belonging to these facilities in accordance with the provisions of these regulations and guidelines issued from time to time". PNRA has advised the licensees to implement the above-mentioned regulation by following the latest version of the IAEA document—INFCIRC/225/Rev-4-Physical

Protection of Nuclear Material and Nuclear Facilities. Pakistan Nuclear Regulatory Authority Ordinance, 2001 (III of 2001) Section 16-f, empowers PNRA to ensure that appropriate measures for physical protection of nuclear installations and nuclear materials are taken.

- The promulgation of Export Control Act 2004 will further strengthen the export regime on goods, technologies material and equipment related to nuclear and biological weapons and their means of delivery.

c)Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

Action Taken

- Customs and other law enforcement agencies keep a tight vigil along borders, seaports and airports.

- Special training to detect sensitive materials is being imparted to the customs and law enforcement officials.

d) Establish, develop, review and maintain appropriate effective national export and trans-ship controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

Action Taken

- The Chemical Weapons Convention Implementation Ordinance 2000 and the Export Control on Goods, Technology, Material and Equipment related to Nuclear and Biological Weapons and their Delivery Systems Act, 2004 provides a comprehensive framework for effective national export and trans-shipment control over goods and technologies that may contribute to proliferation.

- Under the Export Control Act 2004, appropriate End-user certificate as well as catch-all clauses have been included. Violators are liable to be punished with imprisonment and fine, or with both.

- Border controls have been further strengthened and scanners and detection equipment is being installed on entry/exit points.

Operative Paragraph 5

5. Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

- Pakistan is a state party to the Chemical Weapons Convention (CWC) and the Biological Weapons Convention (BWC). Pakistan is in full compliance of these conventions. Pakistan is also an active member of OPCW activities. Pakistan fully supports the establishment of a Verification Protocol of BWC in order to strengthen the full implementation of the Biological Weapons Convention.

- Pakistan is not a party to the NPT. Pakistan is a member of the IAEA and of several Treaties and agreements evolved under the aegis of the Agency which promote nuclear safety, physical protection and technical cooperation for peaceful purposes. Pakistan fulfills its obligations as a responsible nuclear state through the administrative and legislative controls in the field of nuclear technology as detailed in this report.

Operative Paragraph 6

6. Recognizes the utility in implementing this resolution of effective national control lists and calls upon all member States, when necessary, to pursue at the earliest opportunity the development of such lists;

Action Taken

- Pakistan maintains a control list as provided for in the Chemical Weapons Convention (CWC). Such a list is maintained under Section 2(k) in Schedules I, II and III of the Chemical Weapons Convention Implementation Ordinance 2000.

- Section 4 of the Export Control on Goods, Technology, Material and Equipment related to Nuclear and Biological Weapons and their Delivery Systems Act, 2004 provides for development/updating, as necessary, of Control Lists of goods and technologies subject to licensing requirements under the Act.

Operative Paragraph 7

7. Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

Action Taken

- In view of Pakistan's experience in implementation of various treaties regimes including CWC, CPPNM and BWC and its elaborate legislative framework in the safety and security of nuclear technology and material, Pakistan is in a position to provide assistance, as appropriate, in response to specific requests, to the states lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the provisions of the Security Council Resolution 1540 (2004).

- Requests for assistance from the Government of Pakistan should be sent through the Permanent Mission of Pakistan to the United Nations, New York.

Operative Paragraph 8

8. Calls upon all States:

a) To promote the universal adoption and full implementation, and where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

Action Taken

i. Pakistan fully complies with Chemical Weapons Convention (CWC) and Biological Weapons Convention (BWC) – both are non-discriminatory disarmament treaties.

ii. Pakistan is not a party to the Nuclear Non-Proliferation Treaty (NPT). As a nuclear state, Pakistan fully supports the objective of non-proliferation and as outlined in this report, has taken adequate measures to implement its policies of restraint and responsibility in nuclear matters. Pakistan also believes that all states should fulfill their obligations under the treaties to which they are a party.

b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

Action Taken

- See OP 8-a above.

c) To renew and fulfill their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

Action Taken

- Pakistan extends full support to the activities of the IAEA as a member of the Board of Governors. It has always fulfilled its budgetary obligations to the Agency and has rendered technical assistance to Member States under the auspices of the IAEA's Technical Assistance and Technical Cooperation programmes. Pakistan fully supports IAEA's role to render assistance to member states involved in the development of nuclear technology for peaceful purposes.

- Pakistan actively participates in the activities of the OPCW, both as a state party and a member of the Executive Council.

- Pakistan remains fully committed to the strengthening of the Biological Weapons Convention including the establishment of a Compliance regime through a Protocol. Pakistan will continue to follow up the discussions at the 2006 Review Conference.

d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

Action Taken

- The Government of Pakistan maintains a close working relationship with industry, particularly chemical industry through official interaction, seminars and workshops. More such activities are envisaged.

- Inspection of the private chemical industry is regularly carried out.

- Officials of National Authority on CWC also interact with the concerned chambers of commerce and industries to keep them informed of the obligations of chemical industry with regard to implementation of the CWC.

Operative Paragraph 9 & 10

9. Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical or biological weapons and their means of delivery;

10. Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery and related materials;

- Pakistan fully supports dialogue and cooperation on non-proliferation amongst states and has been playing an active role in this context at the regional and international level. Pakistan believes that the Conference on Disarmament (CD) provides the best forum to address the threat posed by proliferation of nuclear, chemical or biological weapons and their means of delivery, where the member states could participate in negotiations in a non-discriminatory manner. The objective of non-proliferation could be achieved by breaking the deadlock in the Conference on Disarmament.

- Pakistan believes that there is no substitute for multilaterally negotiated legal norms enjoying universal application and voluntary adherence. This role can be effectively performed by the Conference on Disarmament, which is the sole forum for negotiating treaty law.

- Such negotiations should encompass critical issues like global nuclear disarmament, missiles, anti-ballistic missile systems and their impact on global and regional stability and militarization of Outer Space.